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WP No.36589 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 05-02-2026

PRONOUNCED ON: 27 - 02- 2026

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP No. 36589 of 2015

and

MP.No.1 of 2015

1. Tmt.P.Vanajakshi
1/261, Palaniappa 3rd Street,
Vanagaram, Chennai 95

Petitioner(s)

Vs

1. The Metropolitan Transport
Corporation,
Rep by its Managing Director,
Pallavan Salai, Chennai 2

2.Tamil Nadu State Transport
Corporations Employees Pension Fund
Trust, Rep by its Administrator,
Thiruvalluvar Illam, Pallavan Salai,
Chennai 2.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 22.4.2014 in Letter No.Ka.No.44P2/ TNSTC U O NI PO/2014-88 passed by the 2nd respondent, quash the same and consequently direct the 2nd



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respondent to sanction and pay the petitioner dearness allowance corresponding to his basic pension which was paid to the petitioner and which is payable to him under the TNSTEC Pension Rules w.e.f. 1.6.2001 together with arrears and all other consequential benefits and as revised from time to time, together with interest at the rate of 12% per annum, award costs.

For Petitioner(s): Mr.G.Vijay Priyan for
Mr.R.Krishnaswamy

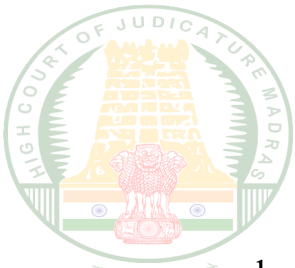
For Respondent(s): M/s. C. Gauthamaraj For R1
Mr. C.S.K. Sathish For R2

ORDER

The petitioner filed the present writ petition seeking the relief of Certiorarified Mandamus, calling for the records pertaining to the order dated 22.04.2014 in Letter No.Ka.No.44P2/ TNSTC U O NI PO/2014-88 passed by the 2nd respondent.

2.Heard Mr.G.Vijay Priyan, learned counsel for the petitioner, Mr.C.Gauthamaraj, learned counsel for the first respondent and Mr.C.S.K.Sathish, learned counsel for the 2nd respondent.

3.The learned counsel for the petitioner would submit that the petitioner was appointed on 20.04.1974 in the respondent-Corporation on compassionate

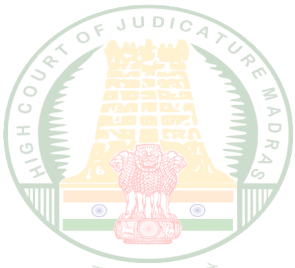


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ground, after the death of her husband on 19.07.1972, and that the petitioner was sanctioned with the Family Pension. While so, she subsequently superannuated from the post of Selection Grade Assistant on 31.05.2001. The learned counsel would submit that though the petitioner was sanctioned with two pensions, viz., Family Pension, as well as her regular pension, in respect of her regular pension, no Dearness Allowance was paid. It is the specific contention of the petitioner that since her retirement, no Dearness Allowance was paid along with her regular pension. Therefore, prayed to set aside the impugned order, and direct the respondent to pay her pension along with Dearness Allowance with effect from 01.06.2001 qua from the date of her superannuation.

4.*Per contra*, the said contention was stoutly objected by the learned counsel for the 2nd respondent and would contend that they have sanctioned both Family Pension and the regular Pension. Since the petitioner had opted for commutation of pension, the respondent has deducted a sum of Rs.862/- in her monthly pension and has been paying the remaining amount of Rs.2,995/- as pension and that such pension is paid along with Dearness Allowance. Further, the learned counsel for the 2nd respondent would contend that the petitioner has



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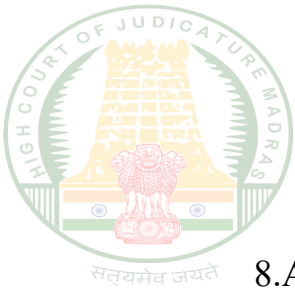
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come up with the present writ petition with misconception of facts. Hence, prayed to dismiss the writ petition.

5.I have given my anxious consideration to either side submissions.

6.While looking at the impugned order, the impugned order refers about the Rule position. According to the Rules, if a person is re-employed after retiring from pensionable job, he/she will be eligible for Dearness Allowance to anyone of his/her pension amount as per Rule 20A of Tamil Nadu State Transport Corporation Employees Provident Fund.

7.But, the petitioner would contend that she has not been sanctioned Dearness Allowance to her regular pension amount. While looking at the counter statement, the respondent had stated that the petitioner had been receiving her regular pension along with Dearness Allowance from July 2001 to till date. In support of their contention, they have also submitted the records as to the pension payment details. According to the above Pension payment details, there is an entry with regard to the payment of pension along with Dearness Allowance.



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8.As rightly contended by the learned counsel for the 2nd respondent, the petitioner without taking into consideration of commutation of pension amount, under misconception, she preferred the writ petition, as if she receives no Dearness Allowance for the pension.

9.At this juncture, it is also relevant to extract Rule 20A of the Tamil Nadu State Transport Corporation Employees' Provident Fund:-

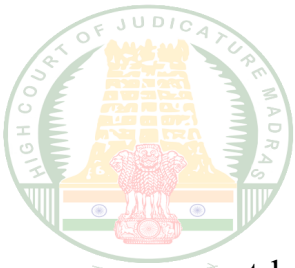
“Rule 20.A-DEARNESS ALLOWANCE TO PENSIONERS

(i) In addition to the basic pension, the pensioners are eligible for nominal Dearness Allowance at the rates that may be determined by the Government of Tamil Nadu.

(ii) If a pensioner is re-employed under the Central Government or a State Government or a Government Undertaking or a Corporation or an Autonomous Body or a Local Fund in India or abroad, he shall not be eligible to draw dearness allowance on pension during the period of such re-employment.

(iii) Dearness allowance is also not admissible during the pensioners stay abroad.”

10.According to Rule 20A(ii), if a pensioner is re-employed under the Central Government or a State Government or a Government Undertaking or a Corporation or an Autonomous Body or a Local Fund in India or abroad, he shall not be eligible to draw dearness allowance on pension during the period of such re-employment. It clearly mandates a pensioner, while on re-employment



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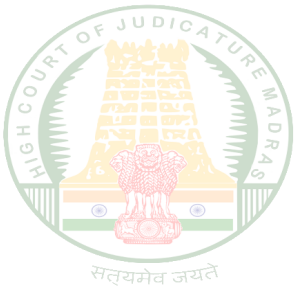
cannot have any Dearness Allowance along with the salary. But, in the case in hand, since the petitioner was a family pensioner and was appointed on a compassionate ground, on the first blush the above Rule may appear to be not directly applicable.

11. But, the principle behind the above Rule is that for a single person, there cannot be two Dearness Allowances. The very concept of Dearness Allowance is based upon the effect of inflation upon an individual employee. In this regard, it is relevant to refer the judgment of the Hon'ble Supreme Court in ***Union of India and Others Vs. Rekha Majhi*** reported in ***(2000) 10 SCC 659***, wherein the word “re-employed” was interpreted in such a way that the same would include first regular appointment in the service. For ready reference, this Court deems it appropriate to extract paragraphs 3, 6 & 7 of the counter statement of the 2nd respondent:-

“3. Sub-rule (21) of Rule 75 of the Railway Services (Pension) Rules, 1993 reads thus:

*“(21) Dearness relief on pension or family pension.-(i) * * **

(ii) If a pensioner is re-employed under the Central or a State Government or a corporation, company, body or bank under such Government in India or abroad including permanent absorption in such corporation, company, body or bank he shall



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not be eligible to draw dearness relief on pension or family pension during the period of such re-employment.

4.

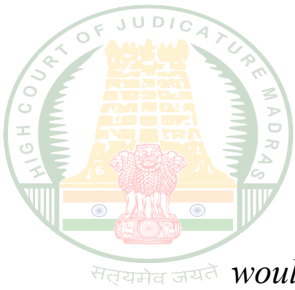
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7. *In a case titled Union of India v. G. Vasudevan Pillay [(1995) 2 SCC 32 : 1995 SCC (L&S) 396 : (1995) 29 ATC 180] this Court held: (SCC pp. 36-37, para 10)*

“10. In some of the cases, we are concerned with the denial of dearness relief on family pension on employment of dependants like widows of the ex-servicemen. This decision has to be sustained in view of what has been stated above regarding denial of DR on pension on re-employment inasmuch as the official documents referred on that point also mention about denial of DR on family pension on employment. The rationale of this decision is getting of dearness allowance by the dependants on their pay, which is drawn following employment, because of which dearness relief on family pension can justly be denied, as has been done.”

The ratio of the decision in the case of Union of India [From the Judgment and Order dated 28-4-1995 of the Central Administrative Tribunal, Calcutta in OA No. 968 of 1994] is, that a pensioner cannot draw two dearness reliefs — one on the salary and the other on pension. Once it is accepted that the respondent is a pensioner, it is immaterial whether such employment of the pensioner is first, regular or temporary appointment or reappointment. In view of such a legal position, the case of the respondent



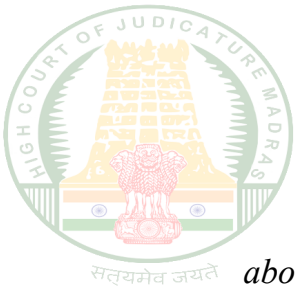
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would fall within the four corners of clause (ii) of sub-rule (21) of Rule 75 of the said Rules. The respondent being a widow of an employee, who died in harness, was given employment in the Railways on compassionate grounds. Technically the respondent has come in employment in substitution of her husband. Simultaneously, the Railways have given her family pension and as such she is a pensioner. Therefore, in such circumstances sub-rule (21) would be attracted and the case of the respondent being a pensioner would be governed by the said Rules. Consequently, the respondent was legally not entitled to draw two dearness reliefs — one on the salary and the other on family pension paid to her. We are, therefore, of the opinion that the appellants are legally justified in denying the respondent dearness reliefs on her family pension.”

12. In the above reported judgment on a similar set of facts and mutatis mutandis Rules of Railway service, Pension Rules 1973, has held that the family pensioner on regular appointment in service is not entitled for a Dearness Allowance on his family pension. But, in the case in hand, according to the counter statement, it appears that notwithstanding the Rule position, the respondents are paying regular pension and the family pension along with the respective Dearness Allowances. For Ready reference, the relevant portion of counter statement is extracted hereunder:-

“8. I submit that the petitioner had claimed dearness allowances in family pension based on the G.O.No.112, Finance (Pension) department dated 24.03.2008 issued by the Government of Tamil Nadu. I state that



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above said G.O. relied by the petitioner would applicable only to the family pensioners of government department. I state that the petitioner is also receiving family pension along with dearness allowance from the Government for the service render by her husband in the transport department."

13.In view of the above legal and factual position, this Court does not find any infirmity in the order of the authority. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected MP is also closed.

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Index:Yes

Speaking order

Internet:Yes

Neutral Citation:Yes

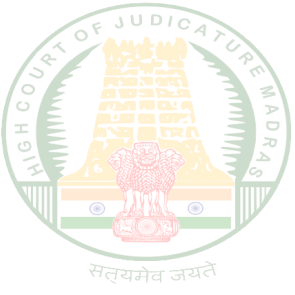
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To

1.The Metropolitan Transport Corporation,

Rep by its Managing Director,
Pallavan Salai, Chennai 2

2.Tamil Nadu State Transport Corporations Employees Pension Fund Trust, Rep by its Administrator,
Thiruvalluvar Illam, Pallavan Salai,
Chennai 2



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C.KUMARAPPAN J.

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Pre Delivery order in
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